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OFFICE OF PETITIONS

Due: 2/26/02

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

Docket Administrator (Room 3J-219)
Lucent Technologies Inc.
101 Crawfords Corner Road
P.O. Box 3030
Holmdel, NJ 07733-303

In re Application of
Kriaras, et al.
Application No. 09/854,962
Filed: May 14, 2001
For: TELEPHONE SYSTEMS

This is in response to the petition filed on September 26, 2001 under 37 CFR §1.47(b).

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that ~~the reply may include an oath or declaration executed by the non-signing inventors.~~ Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on May 14, 2001, without an executed oath or declaration. Accordingly, on July 10, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a \$130.00 surcharge for its late filing.

In response, on September 26, 2001, applicant filed a \$130.00 surcharge, a one month request for extension of time, the present petition, the declaration of Ms. Sarah Packham, correspondence mailed to the non-signing inventor, and an executed oath or declaration.

A grantable petition under 37 CFR §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); ~~(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116~~; (3) the petition fee; and, (4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (1) as set forth above. Neither the Affidavit of Ms. Packham nor the copies of correspondence mailed to the non-signing inventor indicate Mr. Kriaras was presented with application papers (specification, claims and drawings). Unless Mr. Kriaras was presented with a copy of the application papers (specification, claims and drawings), he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration which he was given.

Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Applicant should show that a copy of the application papers was presented to the inventor, but the inventor did not respond to the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

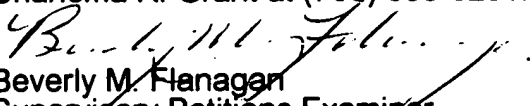
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy